

APPEAL NO. 040482  
FILED APRIL 22, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 6, 2004. With respect to the single issue before him, the hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the third quarter. In its appeal, the appellant (carrier) argues that the hearing officer erred in determining that the claimant established her entitlement to SIBs pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(2) (Rule 130.102(d)(2)) by demonstrating satisfactory participation in a full-time vocational rehabilitation program (VRP) sponsored by the Texas Rehabilitation Commission (TRC). In her response to the carrier's appeal, the claimant urges affirmance. The claimant did not appeal the hearing officer's determinations that she did not establish her entitlement to SIBs pursuant to Rule 130.102(d)(4) by proving that she had no ability to work in the qualifying period for the third quarter and, as a result, that determination will not be discussed further on appeal.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_; that she reached maximum medical improvement on April 25, 2002, with an impairment rating of 15%; that she did not commute her impairment income benefits; and that the third quarter of SIBs ran from September 5 to December 4, 2003, with a corresponding qualifying period of May 23 to August 23, 2003. At issue in this case is whether the claimant met the good faith requirement pursuant to Rule 130.102(d)(2) by demonstrating that she was "enrolled in, and satisfactorily participated in, a full-time [VRP] sponsored by the [TRC] during the qualifying period."

The carrier argues that the hearing officer erred in determining that the claimant demonstrated entitlement to SIBs pursuant to Rule 130.102(d)(2) because she did not produce her Individualized Plan for Employment (IPE) with the TRC. Although we have consistently noted that evidence from the TRC is the best evidence on both the issues of sponsorship and satisfactory participation, we have also rejected the argument that documentary evidence from the TRC is absolutely required to prove either. That is, a claimant's testimony, if it is believed by the hearing officer, can be sufficient to establish SIBs entitlement under Rule 130.102(d)(2). See Texas Workers' Compensation Commission Appeal No. 010952-s, decided June 20, 2001; Texas Workers' Compensation Commission Appeal No. 011120, decided June 28, 2001; Texas Workers' Compensation Commission Appeal No. 020505, decided April 15, 2002; Texas Workers' Compensation Commission Appeal No. 030784, decided May 8, 2003. Accordingly, we reject the carrier's argument that the claimant's failure to introduce the IPE is fatal to her case.

In this instance, the hearing officer was persuaded by the letter from the TRC that the claimant was pursuing her general equivalency diploma (GED) in a program sponsored by the TRC. He was likewise persuaded that the claimant satisfactorily participated in the GED program during the qualifying period for the third quarter by the claimant's testimony to that effect and the evidence of her class attendance. The hearing officer was acting within his province as the sole judge of the weight and credibility of the evidence in so finding. Nothing in our review of the record reveals that the hearing officer's determination that the claimant satisfied the good faith requirement under Rule 130.102(d)(2) is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination, or the determination that the claimant is entitled to SIBs for the third quarter on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PRENTICE HALL CORPORATION SYSTEM, INC.  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Edward Vilano  
Appeals Judge